

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANDREW K. GONZALEZ

Petitioner,

v.

S.C.I. FOREST, et al.

Respondents.

CIVIL ACTION NO. 14-6006

FILED

JUN - 9 2015

MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk

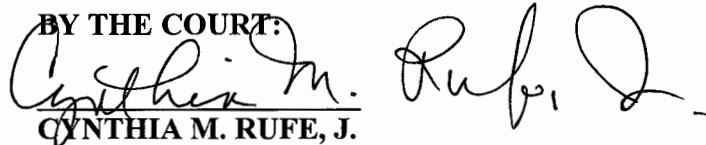
ORDER

AND NOW, this 8th day of June 2015, upon careful and independent consideration of the Petition for Writ of Habeas Corpus, and all related filings, and upon review of the Report and Recommendation of United States Magistrate Judge Thomas J. Rueter [Doc. No. 8] to which no objections have been filed, it is hereby **ORDERED** that:

1. The Report and Recommendation is **APPROVED** and **ADOPTED**,¹
2. The Petition for Writ of Habeas Corpus is **DISMISSED WITH PREJUDICE** and without an evidentiary hearing;
3. Petitioner's Motion to Stay Federal Proceedings and Motion to Defer Reply to Respondent's Answer to Petition are **DENIED**;
4. There is no probable cause to issue a certificate of appealability; and
5. The Clerk of Court is directed to **CLOSE** the case.

It is so **ORDERED**.

BY THE COURT:


CYNTHIA M. RUFÉ, J.

¹ The Report and Recommendation ("R&R") concluded that the petition should be dismissed as time-barred. Although Petitioner was granted an extension of time to file objections, none have been filed. Having reviewed the relevant docket records, the Court agrees that the petition was not filed within the one-year limitations period required by 28 U.S.C. § 2244(d)(1)(A). Even if all of the time during which Petitioner's three post-conviction petitions were pending in state court is excluded (and the Court agrees that the second and third petitions were untimely and therefore do not toll the limitations period), the Petition was not timely filed. The Court also notes that after the R&R was filed the Berks County court dismissed the third petition, a decision now on appeal to the Pennsylvania Superior Court.